

CAYMAN ISLANDS



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THE CHILDREN LAW, 2003

THE FOSTER PLACEMENT (CHILDREN) REGULATIONS, 2012

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The Governor in Cabinet, in exercise of the powers conferred by sections 68(2) and 69(1) and (2), paragraph 4(5) of Schedule 7 and paragraph 6 of Schedule 8 of the Children Law, 2003, hereby makes the following Regulations-

PART I

GENERAL

1. These Regulations may be cited as the Foster Placement (Children) Regulations, 2012. Citation

2. (1) In these Regulations - Definitions

“foster parent” means the person with whom a child is or is proposed to be placed under these Regulations;

“foster placement agreement” means an agreement referred to in regulation 8(3);

“Law” means the Children Law, 2003; and

“placement” means the placement of a child in foster care made in accordance with these Regulations and reference to a child who is placed shall be construed accordingly.

(2) Any notice or consent required under these Regulations shall be given in writing and any such notice may be sent by registered post.

3. (1) These Regulations apply, subject to paragraph (2), to any placement of a child by the Department. Scope of the Regulations

(2) These Regulations do not apply to any placement of a child-

(a) to which the Placement of Children with Parents Regulations, 2012, apply; or

- (b) if the child is not in the care of the Department, with a parent of the child or other person having parental responsibility for him.

(3) Where a care order is in force the application of these Regulations is subject to any directions given by a court whether before or after the Regulations come into force.

(4) Nothing in these Regulations requires the temporary removal of a child from a person with whom he is already living before placement under these Regulations.

PART II

APPROVALS AND PLACEMENTS

Assessment of prospective foster parents

4. (1) The Department shall carry out an assessment of any person whom it considers may be suitable to become a foster parent in accordance with this regulation.

(2) If the Department considers that a person may be suitable to act as a foster parent it shall-

- (a) obtain the information specified in Schedule 1 relating to the prospective foster parent and other members of his household and family and any other information it considers relevant;
- (b) interview at least two persons nominated by the prospective foster parent to provide personal references for him, and prepare written reports of the interviews; and
- (c) having regard to the matters specified in paragraphs (a) and (b), consider whether the prospective foster parent is suitable to act as a foster parent and whether his household is suitable for any child in respect of whom approval may be given.

(3) Subject to paragraph (4), a person shall not be regarded as suitable for assessment and placement as a foster parent if he or any member of his household aged eighteen or over-

(1998 Revision)

- (a) has been convicted of an offence within the period of five years immediately preceding the assessment;
- (b) is excluded from the application of the Rehabilitation of Offenders Law (1998 Revision); or
- (c) is a person who has been convicted of an offence-
 - (i) against morality under Part V of the Penal Code (2010 Revision);

(2010 Revision)

- (ii) under section 152 or 153 of the Penal Code (2010 Revision) relating to neglecting children and child stealing respectively; or
- (ii) against a child under Part VII of the Penal Code (2010 Revision) or any other law.

(4) The Department may regard a person to whom paragraph (3) would, apart from this paragraph apply, as suitable to act or to continue to act, as the case may be, as a foster parent in relation to a particular named child or children if the Department is satisfied that the welfare of that child or those children requires it, and either-

- (a) the person, or a member of his household, is a relative of the child; or
- (b) the person is already acting as a foster parent for the child.

5. (1) Except in the case of an emergency, immediate or urgent placement under regulation 12, a child shall not be placed unless the proposed foster parent is approved by the Department under this regulation.

Approval of foster parents

(2) The Department shall not give any approval under this regulation unless the Department has first completed its assessment of the proposed foster parent's suitability in accordance with regulation 4 and, having had regard to those matters, is satisfied that the person is suitable to act as a foster parent and that his household is suitable for any child in respect of whom approval is given.

(3) An approval given under this regulation may be in respect of a particular named child or children, or number and age range of children, or of placements of any particular kind or in any particular circumstances.

(4) Where the Department approves a person as a foster parent it-

- (a) shall give him notice specifying the terms of the approval including whether it is in respect of a particular named child or children or number and age range of children; and
- (b) shall nevertheless place no child with him unless he enters into a foster care agreement with the Department covering the matters specified in Schedule 2.

(5) Where the Department decides not to approve a person as a foster parent it shall give him notice of the decision and the reasons.

6. (1) Where a foster parent has been approved under regulation 5, the Department shall review not more than a year after approval, and thereafter whenever the Department considers it necessary, but at intervals of not more than

Reviews and termination of approvals

a year, whether the foster parent and his household continue to be suitable for the purposes of the Law and these Regulations.

(2) When undertaking a review the Department shall seek, and take into account, the views of the foster parent and, subject to the child's age and understanding, any child placed with the foster parent.

(3) At the conclusion of the review the Department shall prepare a report and give notice to the foster parent of its decision including any revision of the terms of the approval under these Regulations.

(4) Where on a review the Department is no longer satisfied-

- (a) that the terms of the approval under regulation 5 are appropriate, it shall revise the terms accordingly; or
- (b) that the foster parent or his household are suitable it shall terminate the approval from a date to be specified in the notice under paragraph (3).

(5) Where the foster parent notifies the Department that he no longer wishes to act as a foster parent, or where the Department is otherwise satisfied that this is the case, the Department shall terminate the approval from a date to be specified by a notice served on the foster parent.

Fitness as foster parent

7. A person shall not be qualified to be a foster parent unless the person, in the opinion of the Department-

- (a) is of integrity and good character; and
- (b) is physically and mentally fit to carry on the role as a foster parent,

and full and satisfactory information is available in relation to him in respect of the matters specified in Schedule 1.

Placements

8. (1) The Department shall not place a child with a foster parent unless it is satisfied that-

- (a) that is the most suitable way of performing its duties under section 24(3) of the Law; and
- (b) placement with the particular foster parent is the most suitable placement having regard to all the circumstances.

(2) In making arrangements for a placement, the Department shall secure that where possible the foster parent-

- (a) is of the same religious persuasion as the child; or
- (b) gives an undertaking that the child will be brought up in the child's religious persuasion.

(3) Except in the case of an emergency or immediate placement under regulation 12, the Department shall not place a child unless the Department and the foster parent have entered into a foster placement agreement relating to that child covering the matters specified in Schedule 3.

9. (1) The Department shall satisfy itself that the welfare of each child placed by it continues to be suitably provided for by the placement and for this purpose the Department shall-

Supervision of placements

- (a) make arrangements for an officer of the Department to visit the child, in the home in which he is placed, from time to time as circumstances may require and when reasonably requested by the child or the foster parent and in particular (but subject to regulation 11(2))-
 - (i) in the first year of the placement, within one week from its beginning and then at intervals of not more than four weeks;
 - (ii) subsequently, at intervals of not more than three months; and
- (b) give such advice to the foster parent as appears to the Department to be needed.

(2) In the case of an emergency or immediate placement under regulation 12, the Department shall arrange for the child to be visited at least once in each week during the placement.

(3) On each occasion on which the child is visited under this regulation the Department shall cause one of its officers, if it considers it appropriate, to arrange to see the child alone.

(4) On each occasion on which a child is visited under this regulation the officer who made the visit shall provide the Department with a written report.

10. Where a child has been placed by the Department and it appears to the Department that continuation of the placement would be detrimental to the welfare of that child, the Department shall immediately terminate the placement.

Termination of placements

11. (1) This regulation applies where the Department has arranged to place a child in a series of short-term placements with the same foster parent and the arrangement is such that-

Short-term placements

- (a) all the placements occur within a period which does not exceed one year;
- (b) no single placement is for a duration of more than four weeks; and
- (c) the total duration of the placement does not exceed ninety days.

(2) Any series of short-term placements to which this regulation applies may be treated as a single placement for the purpose of these Regulations but with the modification that a visit under regulation 9(1)(a) shall be made-

- (a) during the first placement in the series of placements; and
- (b) thereafter, if the series of placements continues, at intervals of not more than six months or if the intervals between placements exceeds six months, during the next placement.

Emergency or
immediate placements
by Department

12. (1) Where a child requires emergency or immediate placement, the Department may, for a period not exceeding twenty-four hours, place the child with any foster parent approved under regulation 5.

(2) Before an emergency or immediate placement is made pursuant to paragraph (1), the Department shall-

- (a) satisfy the provisions of regulation 8(1)(a); and
- (b) obtain a written agreement from the person with whom the child is to be placed that that person will carry out the duties specified in paragraph (4).

(3) Where the Department determines that the emergency, immediate or urgent placement of a child is necessary, it may, for a period not exceeding six weeks, place the child with a person who has not been approved under regulation 5 after-

- (a) first interviewing the person;
- (b) inspecting the accommodation;
- (c) obtaining information about other persons living in his household; and
- (d) satisfying itself that-
 - (i) the person is a relative or friend of the child;
 - (ii) the person has made a written agreement with the Department to carry out the duties specified in paragraph (4); and
 - (iii) the provisions of regulation 8(1)(a) are satisfied.

(4) The duties referred to in paragraph (2)(b) and (3)(d)(ii) are-

- (a) to care for the child as if he were a member of that person's family;
- (b) to permit any person authorised by the Department to visit the child at any time;
- (c) to ensure that any information which the foster parent may acquire relating to the child, or to his family or any other person, which has been given to him in confidence in connection with the

- placement is kept confidential and is not disclosed except to, or with the agreement of, the Department; and
- (d) to allow contact with the child in accordance with section 10 or 36 of the Law or with any arrangements made or agreed by the Department.

PART III

RECORDS OF FOSTER PARENTS

13. (1) The Department shall enter, in a register kept for that purpose, the particulars specified in paragraph (2) for each foster parent who is approved under regulation 5 and each person not being an approved foster parent with whom a child is placed pursuant to regulation 8.

Register of foster parents and others with whom a child is placed

- (2) The particulars mentioned in paragraph (1) are-
- (a) the name and address of the foster parent (or, where foster parents are approved jointly, of both foster parents) or other person with whom the child is placed pursuant to regulation 12;
 - (b) the date of the approval under regulation 5 or agreement specified in regulation 12(2)(b); and
 - (c) the terms of the notice of approval under regulation 5(4)(a) or of the agreement specified in regulation 12(2)(b) as for the time being in force.

14. (1) The Department shall compile and maintain a record for each foster parent approved under regulation 5 and for each person, not being an approved foster parent, with whom a child is placed pursuant to regulation 12.

Case records for foster parents and others with whom a child is placed

(2) A record compiled under paragraph (1) shall include copies of each of the documents specified in paragraph (3) and the information specified in paragraph (4).

- (3) The documents referred to in paragraph (2) are a copy of-
- (a) the notice of approval under regulation 5(4)(a);
 - (b) the agreement under regulation 5(4)(b);
 - (c) any report of review of approval under regulation 6(3);
 - (d) any notice of termination of approval under regulations 6(4) or 6(5); or
 - (e) any agreement specified in regulation 12(2)(b).
- (4) The information referred to in paragraph (2) is-

- (a) a record of each placement with the foster parent or person, not being an approved foster parent, with whom a child is placed pursuant to regulation 13, including the name, age and sex of each child placed, the dates on which each placement began and terminated and the circumstances of the termination;
- (b) the information obtained by the Department in relation to the approval of the foster parent and in relation to any review of the termination of the approval; and
- (c) the information obtained under regulation 12(3).

(5) The Department shall compile a record for each prospective foster parent to whom notice is given under regulation 5(5) that he is not approved as a foster parent and the record shall include a copy of the notice and the information, as to the foster parent and his household and family, obtained by the Department in connection with the question of approval.

Retention and confidentiality of records

15. (1) The Department shall retain the record for a foster parent or other person compiled under regulation 14, and any entry relating to him in the register maintained under regulation 13, for at least ten years from the date on which his approval is terminated, or until his death if earlier.

(2) The requirements of paragraph (1) may be complied with by retaining the original written record (or a copy of it) or by keeping all the information from the record in some other accessible form such as by means of a computer.

(3) The Department pursuant to regulation 13 or 14 shall safely secure the register or record and shall take all the necessary steps to ensure that the information which it contains is treated as confidential subject only to-

- (a) any provision in, under, or by virtue of a Law under which access to such register, record or information may be obtained or should be granted; and
- (b) any court order under which access to such register, record or information may be obtained or given.

PART IV

EVENTS AND NOTIFICATION

Notifiable events

16. (1) If in relation to a foster parent, any of the events in column 1 of the table in Schedule 4 takes place, the foster parent shall, without delay, notify the persons indicated in respect of the event in column 2 of the table.

(2) Any notification made in accordance with this regulation which is given orally shall be confirmed in writing.

SCHEDULE 1

(Regulations 4(2)(a) and 7)

**INFORMATION AS TO PROSPECTIVE FOSTER PARENT AND
OTHER MEMBERS OF HIS HOUSEHOLD AND FAMILY**

1. His full name, address and date of birth.
2. Proof of identification, including a recent photograph.
3. Details of his health (supported by a medical report), personality, marital status and details of his current and any previous marriage or common law relationship.
4. Particulars of the other adult members of his household.
5. Particulars of the children in his family, whether or not members of his household, and any other children in his household.
6. Particulars of his accommodation.
7. His religious persuasion, the degree of his religious observance and his capacity to care for a child from any particular religious persuasion.
8. His racial origin, cultural and linguistic background and his capacity to care for a child from any particular origin or cultural or linguistic background.
9. His past and present employment or occupation, his standard of living and leisure activities and interests.
10. His previous experience in caring for his own and other children and his ability in this respect.
11. His skills, competence and potential relative to his capacity to care effectively for a child placed with him.
12. His previous criminal convictions (if any) and those of other adult members of his household.
13. The outcome of any request or application made by him or any other member of his household to foster or adopt children under this Law or any other enactment repealed or not.

14. Particulars of any previous approval under regulation 5, or refusal of approval or termination of approval under regulation 6, relating to him or any other member of his household.

15. The names and addresses of two persons who will provide personal references for the prospective foster parent.

SCHEDULE 2

(Regulation 5 (4)(b))

MATTERS AND OBLIGATIONS IN FOSTER CARE AGREEMENTS

1. The terms of the foster parent's approval.
2. The amount of support or training to be given to the foster parent.
3. The procedure for the review and approval of a foster parent.
4. The support and training to be given to the foster parent.
5. The procedure in connection with the placement of foster children and in particular-
 - (a) the matters to be covered in foster placement agreements and the respective obligations, under any such agreements, of the Department and the foster parent;
 - (b) the Department's arrangements for meeting any legal liabilities of the foster parent arising by reason of a placement; and
 - (c) the procedure available to foster parents for making representations to the Department.
6. To give written notice to the Department forthwith, with full particulars, of-
 - (a) any intended change of the foster parent's address;
 - (b) any change in the composition of his household;
 - (c) any other change in his personal circumstances and any other event affecting either his capacity to care for any child placed or the suitability of his household; and
 - (d) any further request for application of a kind mentioned in paragraph 13 of Schedule 1.
7. Not to administer corporal punishment to any child placed with him.

8. To ensure that any information relating to a child placed with him, to the child's family or to any other person which has been given to him in confidence in connection with a placement, is kept confidential and is not disclosed to any person without the consent of the Department.
9. To comply with the terms of any foster placement agreement and to care for the child placed with the foster parent as if he were a member of the foster parent's family and to promote his welfare having regard to the Department's long and short-term arrangements for the child.
10. To notify the Department immediately of any serious illness of the child or any other serious occurrence affecting the child.
11. Where regulation 10 applies, to allow the child to be removed from the foster parent's home by the Department.
12. To comply with the policies and procedures of the Department.
13. To keep the Department informed of the child's progress and to notify the Department of any significant event affecting the child.

SCHEDULE 3

(Regulation 8(3))

MATTERS AND OBLIGATIONS TO BE COVERED IN FOSTER PLACEMENT AGREEMENTS

1. The provision by the Department of a statement containing all the information which the Department considers necessary to enable the foster parent to care for the child and in particular, information as to-
 - (a) the Department's arrangements for the child and the objectives of the placement;
 - (b) the child's personal history, religious persuasion, cultural, linguistic background and racial origin;
 - (c) the child's state of health and identified health needs;
 - (d) the child's safety needs, including any need for any special equipment or adaptation;
 - (e) the child's educational needs; and
 - (f) any needs arising from any disability the child may have,

including a requirement for the statement to be provided either at the time of the signing of the agreement or, where this is not practicable, within the following fourteen days.

2. The Department's arrangements for the financial support of the child during the placement.
3. Any arrangements for delegation of responsibility for consent to medical, dental or optical examination or treatment of the child.
4. The circumstances in which it is necessary to obtain in advance the approval of the Department for the child to live, even temporarily, away from the foster parent's home.
5. The arrangements for visits to the child, in connection with the supervision of the placement, by a person authorised by or on behalf of the Department and the frequency of visits and reviews under the Review of Children's Cases Regulations, 2012.
6. The arrangements for the child to have contact with his parents and other persons, including any arrangements pursuant to section 36 of the Law or any contact order.
7. Compliance by the foster parent with the terms of the foster care agreement.
8. Co-operation by the foster parent with the Department regarding any arrangements it makes for the child.
9. The procedure available to foster parents for making representations.
10. To give notice to the Department forthwith, with full particulars, of-
 - (a) any intended change of the foster parent's address;
 - (b) any change in the composition of his household;
 - (c) any other change in this personal circumstances and any other event affecting either his capacity to care for any child placed or the suitability of his household; and
 - (d) any request or application to adopt children, or for registration for child minding or day care.
11. To comply with the terms of any foster placement agreement.

12. To care for any child placed with him as if the child were a member of the foster parent's family and to promote his welfare having regard to the long and short-term plans for the child.

SCHEDULE 4

(Regulation 16(1))

EVENTS AND NOTIFICATIONS

Column 1	Column 2			
Event:	To be notified to:			
	Department	Governor in Cabinet	Police	Health Services Authority
Death of a child placed with foster parents	Yes	Yes	Yes	Yes
Serious illness or serious accident of a child placed with foster parents.	Yes			Yes
Outbreak at the home of a foster parent of any infectious disease which in the opinion of a registered medical practitioner attending the home is sufficiently serious to be so notified.	Yes			Yes
Allegation that a child placed with foster parents has committed a serious offence.	Yes		Yes	
Involvement or suspected involvement of a child placed with foster parents in prostitution.	Yes		Yes	

Serious incident relating to a child placed with foster parents necessitating calling the police to the foster parent's home	Yes			
Absconding by a child placed with foster parents	Yes		Yes	
Any serious complaint about any foster parent approved by the Department.	Yes			
Instigation and outcome of any child protection enquiry involving a child placed with foster parents	Yes			

Made in Cabinet on the 28th day of August, 2012.

Kim Bullings

Clerk of the Cabinet.

Laid in the Legislative Assembly on the 5th day of November, 2012, in accordance with section 95(2) of the Children Law, 2003.

Zena Merren-Chin

Clerk of the Legislative Assembly.